

**Executive Summary – Enforcement Matter – Case No. 35459**

**Ranger Utility Company**

**RN101216133**

**Docket No. 2011-1171-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Indifference to legal duty based on violation of a previous order.

**Media:**

PWS

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Lakeside Estates Subdivision, located at the intersection of River Run and Lakeside Drive,  
Waller County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** March 22, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$21,250

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$600

**Total Due to General Revenue:** \$20,650

Payment Plan: 35 payments of \$590 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 35459**  
**Ranger Utility Company**  
**RN101216133**  
**Docket No. 2011-1171-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** June 8, 2011  
**Date(s) of NOE(s):** July 6, 2011

***Violation Information***

1. Failed to provide a total storage capacity of 200 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2008-0346-PWS-E, Ordering Provision 2.a.i.].
2. Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute("gpm") per connection [TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii), TEX. HEALTH & SAFETY CODE § 341.0315(c) and TCEQ Agreed Order Docket No. 2008-0346-PWS-E, Ordering Provision 2.a.ii.].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 180 days:
  - i. Provide a total storage tank capacity of 200 gallons per connection; and
  - ii. Provide two or more service pumps having a total capacity of 2.0 gpm per connection.
- b. Within 195 days, submit written certification demonstrating compliance with Ordering Provision a.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 35459**  
**Ranger Utility Company**  
**RN101216133**  
**Docket No. 2011-1171-PWS-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Epifanio Villarreal, Enforcement Division,  
Enforcement Team 2, MC R-14, (361) 825-3425; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Jason Clepper, Vice President, Ranger Utility Company, 3601 South  
King Highway, Texarkana, Texas 75501

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

**DATES**

**Assigned**

11-Jul-2011

**PCW**

11-Jul-2011

**Screening**

12-Jul-2011

**EPA Due**

## RESPONDENT/FACILITY INFORMATION

**Respondent** Ranger Utility Company

**Reg. Ent. Ref. No.** RN101216133

**Facility/Site Region** 12-Houston

**Major/Minor Source** Minor

## CASE INFORMATION

**Enf./Case ID No.** 35459

**Docket No.** 2011-1171-PWS-E

**Media Program(s)** Public Water Supply

**Multi-Media**

**No. of Violations** 2

**Order Type** Findings

**Government/Non-Profit** No

**Enf. Coordinator** Epifanio Villarreal

**EC's Team** Enforcement Team 2

**Admin. Penalty \$ Limit Minimum** \$50

**Maximum**

\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

**Subtotal 1** \$17,000

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**

25.0%

Enhancement

**Subtotals 2, 3, & 7** \$4,250

**Notes**

Enhancement for one NOV with same/similar violations and one agreed order with denial of liability.

**Culpability**

No

0.0%

Enhancement

**Subtotal 4** \$0

**Notes**

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments**

**Subtotal 5** \$0

**Economic Benefit**

Total EB Amounts \$14,974

Approx. Cost of Compliance \$49,013

0.0% Enhancement\*

\*Capped at the Total EB \$ Amount

**Subtotal 6** \$0

**SUM OF SUBTOTALS 1-7**

**Final Subtotal** \$21,250

**OTHER FACTORS AS JUSTICE MAY REQUIRE**

0.0%

**Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** \$21,250

**STATUTORY LIMIT ADJUSTMENT**

**Final Assessed Penalty** \$21,250

**DEFERRAL**

0.0%

Reduction

**Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

\$21,250

Screening Date 12-Jul-2011

Docket No. 2011-1171-PWS-E

PCW

Respondent Ranger Utility Company

Policy Revision 2 (September 2002)

Case ID No. 35459

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101216133

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )  | 1                 | 5%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )  | 1                 | 20%     |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )                              | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government ( <i>number of counts</i> )   | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events ( <i>number of events</i> )   | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )     | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )  | 0                 | 0%      |
| Please Enter Yes or No        |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

**Adjustment Percentage (Subtotal 2)** 25%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

**Adjustment Percentage (Subtotal 3)** 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

**Adjustment Percentage (Subtotal 7)** 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one NOV with same/similar violations and one agreed order with denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 25%

**Screening Date** 12-Jul-2011  
**Respondent** Ranger Utility Company  
**Case ID No.** 35459  
**Reg. Ent. Reference No.** RN101216133  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal  
**Violation Number** 1

**Docket No.** 2011-1171-PWS-E

**PCW**

Policy Revision 2 (September 2002)  
PCW Revision October 30, 2008

**Rule Cite(s)**

30 Tex. Admin. Code § 290.45(b)(1)(C)(ii), Tex. Health & Safety Code § 341.0315(c), and TCEQ Agreed Order Docket No. 2008-0346-PWS-E, Ordering Provision 2.a.i

**Violation Description**

Failed to provide a total storage capacity of 200 gallons per connection. Specifically, at the time of the record review, it was documented that the Facility is 100% deficient in storage capacity because the Facility does not have any storage tanks.

**Base Penalty** \$1,000

**>> Environmental, Property and Human Health Matrix**

**OR**

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential | x     |          |       |

**Percent** 25%

**>> Programmatic Matrix**

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

**Percent** 0%

**Matrix Notes**

Failure to provide storage capacity could result in water outages and low pressure problems, exposing consumers to significant amounts of contaminants which would exceed levels protective of human health.

**Adjustment** \$750

\$250

**Violation Events**

**Number of Violation Events** 34

1023 **Number of violation days**

|                         |              |   |
|-------------------------|--------------|---|
| mark only one with an x | daily        |   |
|                         | weekly       |   |
|                         | monthly      | x |
|                         | quarterly    |   |
|                         | semiannual   |   |
|                         | annual       |   |
|                         | single event |   |

**Violation Base Penalty** \$8,500

Thirty-four monthly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2008-0346-PWS-E, September 22, 2008, to the date of screening, July 12, 2011.

**Good Faith Efforts to Comply**

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

|               |   |               |
|---------------|---|---------------|
| Extraordinary |   |               |
| Ordinary      |   |               |
| N/A           | x | (mark with x) |

**Notes**

The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$8,500

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$10,391

**Violation Final Penalty Total** \$10,625

**This violation Final Assessed Penalty (adjusted for limits)** \$10,625

# Economic Benefit Worksheet

**Respondent** Ranger Utility Company  
**Case ID No.** 35459  
**Reg. Ent. Reference No.** RN101216133  
**Media** Public Water Supply  
**Violation No.** 1

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

|                          |          |             |            |      |       |         |          |
|--------------------------|----------|-------------|------------|------|-------|---------|----------|
| Equipment                | \$34,013 | 22-Sep-2008 | 1-Feb-2013 | 4.36 | \$495 | \$9,896 | \$10,391 |
| Buildings                |          |             |            | 0.00 | \$0   | \$0     | \$0      |
| Other (as needed)        |          |             |            | 0.00 | \$0   | \$0     | \$0      |
| Engineering/construction |          |             |            | 0.00 | \$0   | \$0     | \$0      |
| Land                     |          |             |            | 0.00 | \$0   | n/a     | \$0      |
| Record Keeping System    |          |             |            | 0.00 | \$0   | n/a     | \$0      |
| Training/Sampling        |          |             |            | 0.00 | \$0   | n/a     | \$0      |
| Remediation/Disposal     |          |             |            | 0.00 | \$0   | n/a     | \$0      |
| Permit Costs             |          |             |            | 0.00 | \$0   | n/a     | \$0      |
| Other (as needed)        |          |             |            | 0.00 | \$0   | n/a     | \$0      |

**Notes for DELAYED costs**

The delayed cost includes the estimated amount necessary to provide a minimum storage capacity of 200 gallons per connection, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0346-PWS-E, to the estimated date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

|                               |  |  |  |      |     |     |     |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal                      |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.00 | \$0 | \$0 | \$0 |

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$34,013

**TOTAL**

\$10,391



**Screening Date** 12-Jul-2011  
**Respondent** Ranger Utility Company  
**Case ID No.** 35459  
**Reg. Ent. Reference No.** RN101216133  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal  
**Violation Number** 2

**Docket No.** 2011-1171-PWS-E

**PCW**

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**Rule Cite(s)** 30 Tex. Admin. Code § 290.45(b)(1)(C)(iii), Tex. Health & Safety Code § 341.0315(c) and TCEQ Agreed Order Docket No. 2008-0346-PWS-E, Ordering Provision 2.a.ii

**Violation Description**

Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection. Specifically, at the time of the record review, it was documented that the Respondent has failed to modify the Facility to provide an adequate service pump capacity. The Facility is currently 100% deficient.

**Base Penalty** \$1,000

**>> Environmental, Property and Human Health Matrix**

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential | x     |          |       |

**Percent** 25%

**>> Programmatic Matrix**

| Falsification |       |          |       |
|---------------|-------|----------|-------|
|               | Major | Moderate | Minor |
|               |       |          |       |

**Percent** 0%

Matrix Notes

Failure to provide service pump capacity may not allow the Facility to supply water to sections of the distribution system where it is not possible to supply it by gravity; this could expose customers to a significant amount of contaminants that would exceed levels protective of human health.

**Adjustment** \$750

\$250

**Violation Events**

Number of Violation Events 34

1023 Number of violation days

|                         |              |   |
|-------------------------|--------------|---|
| mark only one with an x | daily        |   |
|                         | weekly       |   |
|                         | monthly      | x |
|                         | quarterly    |   |
|                         | semiannual   |   |
|                         | annual       |   |
|                         | single event |   |

**Violation Base Penalty** \$8,500

Thirty-four monthly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2008-0346-PWS-E, September 22, 2008, to the date of screening, July 12, 2011.

**Good Faith Efforts to Comply**

0.0% Reduction

\$0

|               | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary |            |                               |
| Ordinary      |            |                               |
| N/A           | x          | (mark with x)                 |

Notes

The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$8,500

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** \$4,583

**Statutory Limit Test**

**Violation Final Penalty Total** \$10,625

**This violation Final Assessed Penalty (adjusted for limits)** \$10,625

# Economic Benefit Worksheet

**Respondent** Ranger Utility Company

**Case ID No.** 35459

**Reg. Ent. Reference No.** RN101216133

**Media** Public Water Supply

**Violation No.** 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

## Delayed Costs

|                          |          |             |            |      |       |         |         |
|--------------------------|----------|-------------|------------|------|-------|---------|---------|
| Equipment                | \$15,000 | 22-Sep-2008 | 1-Feb-2013 | 4.36 | \$218 | \$4,364 | \$4,583 |
| Buildings                |          |             |            | 0.00 | \$0   | \$0     | \$0     |
| Other (as needed)        |          |             |            | 0.00 | \$0   | \$0     | \$0     |
| Engineering/construction |          |             |            | 0.00 | \$0   | \$0     | \$0     |
| Land                     |          |             |            | 0.00 | \$0   | n/a     | \$0     |
| Record Keeping System    |          |             |            | 0.00 | \$0   | n/a     | \$0     |
| Training/Sampling        |          |             |            | 0.00 | \$0   | n/a     | \$0     |
| Remediation/Disposal     |          |             |            | 0.00 | \$0   | n/a     | \$0     |
| Permit Costs             |          |             |            | 0.00 | \$0   | n/a     | \$0     |
| Other (as needed)        |          |             |            | 0.00 | \$0   | n/a     | \$0     |

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to provide a total pump capacity of 2.0 gpm per connection, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0346-PWS-E, to the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |  |  |  |      |     |     |     |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal                      |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.00 | \$0 | \$0 | \$0 |

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$15,000

**TOTAL**

\$4,583

# Compliance History

Customer/Respondent/Owner-Operator: CN600698153 Ranger Utility Company Classification: Rating:

Regulated Entity: RN101216133 LAKESIDE ESTATES SUBDIVISION Classification: Site Rating:

2370008

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION

WATER LICENSING LICENSE 2370008

Location: RIVER RUN AT THE INTERSECTION OF LAKESIDE DR, WALLER COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 11, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 11, 2006 to July 11, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Epifanio Villarreal Phone: 361-825-3425

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 09/22/2008 ADMINORDER 2008-0346-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Description: Failure to inspect the interior and exterior of the pressure tank.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)

Description: Failed to plug and seal an abandoned public water supply well in accordance with 16 TEX. ADMIN. CODE ch. 76 or return the well to a non-deteriorated condition.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide a total storage capacity of 200 gallons per connection.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection.

- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 02/22/2008 (611289)

2 01/25/2011 (892938)

3 07/06/2011 (932678)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 01/25/2011 (892938)CN600698153

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide a total storage capacity of 200 gallons per connection.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
RANGER UTILITY COMPANY  
RN101216133**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2011-1171-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ranger Utility Company ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply at the intersection of River Run and Lakeside Drive, Waller County, Texas (the "Facility") that has approximately 79 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on June 8, 2011, TCEQ staff documented that the Respondent did not provide a total storage capacity of 200 gallons per connection. Specifically, at the time of the record review, it was documented that the Facility is 100% deficient in storage capacity because the Facility does not have any storage tanks.
3. During a record review conducted on June 8, 2011, TCEQ staff documented that the Respondent did not provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection. Specifically, at the time of the record review, it was documented that the Respondent has failed to modify the Facility to provide an adequate service pump capacity. The Facility is currently 100% deficient.
4. The Respondent received notice of the violations on July 11, 2011.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2008-0346-PWS-E, Ordering Provision 2.a.i.
3. As evidenced by Findings of Fact No. 3, the Respondent failed to provide two or more service pumps having a total capacity of 2.0 gpm per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii), TEX. HEALTH & SAFETY CODE § 341.0315(c) and TCEQ Agreed Order Docket No. 2008-0346-PWS-E, Ordering Provision 2.a.ii.
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Twenty-One Thousand Two Hundred Fifty Dollars (\$21,250) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid Six Hundred Dollars (\$600) of the administrative penalty. The remaining amount of Twenty Thousand Six Hundred Fifty Dollars (\$20,650) of the administrative penalty shall be payable in 35 monthly payments of Five Hundred Ninety Dollars (\$590) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option,

accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

### **III. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty-One Thousand Two Hundred Fifty Dollars (\$21,250) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ranger Utility Company, Docket No. 2011-1171-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
  - a. Within 180 days after the effective date of this Agreed Order:
    - i. Provide a total storage tank capacity of 200 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
    - ii. Provide two or more service pumps having a total capacity of 2.0 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.
  - b. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.



7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pam Davis  
For the Executive Director

4/9/13  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Ranger Utility Company. I am authorized to agree to the attached Agreed Order on behalf of Ranger Utility Company, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Ranger Utility Company waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Jason Clepper  
Signature

2-11-13  
Date

Jason Clepper  
Name (Printed or typed)  
Authorized Representative of  
Ranger Utility Company

Vice President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.